

### Argument and Remarks

Claims 1, 5 – 9 and 11 – 16 were rejected under 35 U.S.C. 102(e) as being anticipated by a reference authored by *Tomohito et al* and published on September 20, 2003 as “Shape Reformation of 3D Range Image Scanned On A Balloon” at the 21<sup>st</sup> Annual Conference of the Robotics Society of Japan. This reference was included by Applicant in an information disclosure statement filed by Applicant on 12/20/2007, and the Examiner indicated that entry of this IDS was under her consideration.

In response, Applicant submit herewith the verified English translation of Japanese Patent Application 2004-050029 filed February 25, 2004, to thereby perfect their claim to priority under 35 U.S.C. §119 and antedate the *Tomohito et al* reference published less than one year before, on September 20, 2003. Applicants also submit a Rule 131 Declaration by Katsushi IKEUCHI clarifying authorship of the *Tomohito et al* reference and how that relates to inventorship.

In his declaration, Katsushi IKEUCHI, one of the inventors of the instant application, states that the cited reference was published less than one year prior to the date of the priority application filing of February 25, 2004. The Declaration further states that the same parties both wrote the cited paper and filed the priority application within one year of that paper’s publication. Declarant resolves the seeming inconsistency of the *Tomohito et al* paper including five authors, while the priority application and the instant application list only three inventors: The two additional authors of the paper were “only assistants in experiments conducted.” Therefore, the paper’s inventors, the Japanese priority patent application’s inventors, and the inventors of the instant application are identical.

It is respectfully submitted by Applicant that, by this Declaration and the explanation contained therein, the Examiner’s rejections to the claims based on 35 U.S.C. §102(e) are overcome because the paper cited as prior art by the Examiner is not “by another.” Further, Applicant also respectfully submits that the claims objected to, because they are dependent upon a rejected base claim, are also overcome.

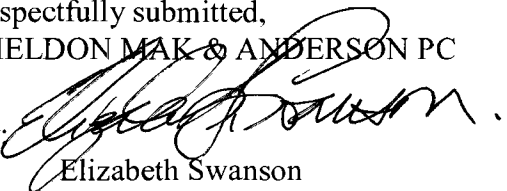
No new matter has been added to this application by these submissions. Applicant requests entry of all documents submitted herewith to Applicants’ file.

In view of this, the Applicants respectfully request entry of this Amendment and of the documents submitted herewith to the instant application's record in the file

Please charge any additional fee due in connection with the present Preliminary Amendment, or credit any overpayment, to Deposit Account No. 19-2090.

Respectfully submitted,  
SHELDON MAK & ANDERSON PC

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